

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

SOCIAL SERVICES

PREAMBLE

1. Sections Affected:

R6-5-7411
R6-5-7432
R6-5-7433
R6-5-7437
R6-5-7446
R6-5-7452
R6-5-7459
R6-5-7461

Rulemaking Action:

Amend
Amend
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Amend

2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing Statutes: A.R.S. §§ 8-503(A)(4)(b), 41-1003, 41-1954(A)(3), 41-1967(I), and 46-134(A)(12)

Implementing Statutes: A.R.S. §§ 8-506, 8-509, 41-1967(D) and (E), and 46-134(A)(2)(b)

3. A list of previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 396, January 29, 1999

4. The name and address of the agency personnel with whom persons may communicate regarding the rulemaking:

Name: Beth Broeker

Address: P.O. Box 6123, Site Code 050A, Phoenix, AZ 85005 or
1789 West Jefferson, Site Code 050, Phoenix, AZ 85007

Telephone: (602) 542-6555

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5. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking package arises out of a request from the Governor's Regulatory Review Council (G.R.R.C.) in May 1997 when it reviewed and approved the Department's Administrative Rule package on Group Care Facilities (R6-5-7401 through R6-5-7471). At the time the previous rule package was filed, G.R.R.C. requested that the Department review the rules after a year of implementation and determine if additional modifications were required. The Depart-

Arizona Administrative Register
Notices of Proposed Rulemaking

ment has determined that the rules presented in this package do require minor modifications. The proposed modifications:

- A. Clarify the documentation that must be filed with the application for renewal of a license so that the requirements and process are easier for the applicant.
- B. Add the requirement that the Department has the authority to approve the instructor who will provide training in de-escalation and physical restraint practices. This added requirement will ensure a method of quality assurance for the licensing authority when reviewing the training programs provided by the licensee.
- C. Add the requirement that the licensee shall have a written plan to ensure that children in their care are safeguarded. This requirement provides that the licensee will have adequate staff to ensure the safety of the children, even if this staffing plan exceeds the minimum requirements according to the rule.
- D. Remove the requirement that supervisors be certified, because no one in Arizona has been able to comply with this certification requirement, and the Department determined that to do so would not add quality to the programs offered by the licensee.
- E. Add a requirement that meals be prepared in compliance with the posted menus. Current rules require that licensees prepare a menu; however, licensees were not using the menus to prepare their meals, thus defeating the purpose of the menus.
- F. Modify the requirement for dental examinations from every 6 months to every 12 months or as required by a dentist because the 6-month time cycle was not covered by most insurance (including CMDP) provided to children in care.
- G. Eliminate the specific measurement for determining adequate light in residential areas because this proved to be an arbitrary measurement of appropriate light. The licensee shall be required to provide illumination to ensure that staff and children can perform activities and tasks safely without eyestrain.
- H. Add a requirement prohibiting a licensee from locking bedroom doors because of fire danger.
- I. Provide for technical correction in internal cross references.

6. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact.

This rulemaking effort will not impose any significant costs on any person or group, other than the minor costs associated with promulgation and publication of the rulemaking package. Any minor costs are outweighed by the benefits of clarifying certain aspects of the process for licensing group care facilities. The public, the regulated social service entities, and the Department will all benefit from this rulemaking effort.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Beth Broeker
Address:	P.O. Box 6123, Site Code 050A, Phoenix, AZ 85005 or 1789 West Jefferson, Site Code 050, Phoenix, AZ 85007
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Fax Number:	(602) 542-6000
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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule.

The Department does not plan to conduct hearings on these amendments unless a written request for an oral proceeding is submitted to the person named in question #4 within 30 days after the date of this publication. The Department will accept written comments for at least 30 days after the date of this publication to the person named in paragraph 4.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules.

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

**ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENT FOR CHILD WELFARE AGENCIES
OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS**

Section

- R6-5-7411. Application for Renewal of License and Operating Certificates
- R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions
- R6-5-7433. Orientation and Training for Staff
- R6-5-7437. Staff Coverage; Staff-child Ratios
- R6-5-7446. Nutrition, Menus, and Food Service
- R6-5-7452. Medical and Health Care
- R6-5-7459. Building Interior
- R6-5-7461. Sleeping Areas and Furnishings

**ARTICLE 74. LICENSING PROCESS AND LICENSING REQUIREMENT FOR CHILD WELFARE AGENCIES
OPERATING RESIDENTIAL GROUP CARE FACILITIES AND OUTDOOR EXPERIENCE PROGRAMS**

R6-5-7411. Application for Renewal of License and Operating Certificates

- A. No earlier than 90 and no later than 60 days prior to the expiration date of license, an agency may apply to the Licensing Authority for renewal of its license and any operating certificates. The Licensing Authority does not have a duty to notify the agency of license expiration. The agency shall contact the Licensing Authority to request a renewal application and to schedule a DHS health and safety inspection. The agency shall schedule its own fire inspection. Failure to timely apply or obtain inspections may result in suspension of the agency's license until the renewal process is completed.
- B. An agency shall apply for renewal on a Department application form containing the information required in this Section.
~~listed in R6-5-7405(A).~~
- C. An agency shall submit copies of the completed renewal application and supporting documents ~~listed in R6-5-7405(A)~~ to the Licensing Authority. If the agency has not amended, changed or updated the information or documentation since the agency last applied for or renewed its license, the agency shall ~~may~~ indicate "no change" on the documents submitted with the renewal application form.
- D. With a renewal application, the agency shall also submit the following documentation:
 - 1. A current financial statement prepared by an independent certified public accountant who is not employed by the agency;
 - 2. A certificate of current insurance coverage as prescribed in R6-5-7426;
 - 3. A copy of the agency's current budget and the agency's audit report for its preceding fiscal year;
 - 4. Identification of and the following background information on the agency, facility, and administrators:
 - a. Name, address, and telephone and telefacsimile numbers for the agency and all facilities operated by the agency;
 - b. Name, title, business address, and telephone and telefacsimile number of:
 - i. The person who serves as the chief executive officer (CEO) as prescribed in R6-5-7432(A);
 - ii. The person who serves as the program director as prescribed in R6-5-7432(B);
 - iii. The person with delegated authority to act when the CEO is absent;
 - iv. The person in charge of each separate facility as prescribed in R6-5-7432(C);
 - v. Persons holding at least 10% ownership interest in the applicant; and
 - vi. The agency and facility medical directors, if applicable;
 - c. The educational qualifications and work history for each person listed in subsection (D)(4)(b), with that person's attached resume, employment application, or curriculum vitae;
 - d. A list of the members of the agency's governing body described in R6-5-7424, including name, address, position in the agency, term of member ship, and any relationship to the applicant;
 - e. A list of licenses or certificates for provision of medical or social services currently or previously held by the applicant or persons listed in subsection (D)(4)(b), including those held in this state or another state or country; the list shall include the dates the person held the license or certificate;

Arizona Administrative Register
Notices of Proposed Rulemaking

- f. A written description of any proceedings for denial, suspension, or revocation of a license or certificate for provision of medical, psychological, behavioral health, or social services, pending or filed, or brought against the applicant or a person listed in subsection (D)(4)(b), including those held in this state or another state or country; and
 - g. A written description of any litigation in which the applicant or a person listed in subsection (D)(4)(b) has been a party during the 10 years preceding the date of application, including, collection matters and bankruptcy proceedings.
 - 5. An organizational chart for the agency and each separate facility, showing administrative structure and staffing, and lines of authority.
 - 6. The following information on staff:
 - a. A list of applicant's paid staff, including:
 - i. Name;
 - ii. Position or titles;
 - iii. Degrees, certificates, or licenses held;
 - iv. Business address;
 - v. Date of hire;
 - vi. Date of last physical; and
 - vii. Date of submission for fingerprinting and background clearance;
 - b. For any staff whose primary residence is the facility:
 - i. The name and date of birth of any persons residing with a staff member;
 - ii. Evidence that any adult residing with a staff member has submitted fingerprints and criminal background information as prescribed in R6-5-7431 and is free from communicable diseases posing a danger to children in care, as prescribed in R6-5-7431(H); and
 - iii. Evidence that the staff member's children who reside at the facility have current immunizations.
 - 7. 4. Copies of any written complaints the agency has received about its performance at its ~~facilities~~ facility during the expiring license year and the agency's response to the complaints; and
 - 8. 5. A written description of any changes in program services or locations, or the children served by the agency.
 - E.** For a renewal application, the administrative completeness review time frame described in A.R.S. § 41-1072(1) begins when the applicant submits a renewal application form and the required documentation listed in this Section.

R6-5-7432. Qualifications for Specific Positions or Tasks; Exclusions

- A.** Chief Executive Officer ("CEO"): A licensee shall have a chief executive officer for the agency. The CEO:
 - 1. Is responsible for general management, administration, and operation of the agency in accordance with this Article;
 - 2. Ensures that:
 - a. Each child in care receives necessary professional services;
 - b. Appropriately qualified staff render services to children in care; and
 - c. The services are coordinated;
 - 3. Shall have management experience and meet any other qualifications prescribed by the governing body;
 - 4. Shall reside in Arizona;
 - 5. Shall be accessible to staff, representatives of the Licensing Authority, and other governmental agencies; as used in this subsection, "accessible" means readily available to answer questions and to handle problems or emergencies that arise, either personally or through a chain of command; and
 - 6. Shall designate a qualified person to perform administrative responsibilities whenever the CEO is inaccessible.
- B.** Program Director: A licensee shall have a least 1 person who is responsible for development, implementation, and supervision of an agency's programs and services. This person shall have at least:
 - 1. A master's degree in social work or a related area of study from an accredited school and 1 year experience in the child welfare or child care services field; or
 - 2. A bachelor's degree in social work or a related area of study from an accredited school and 2 years of experience in the child welfare or child care services field.
- C.** Facility Supervisor: If a licensee operates more than 1 facility, the licensee shall designate a person to supervise the operations of each facility.
- D.** Supervisors: Any staff member who supervises, evaluates, or monitors the work of the direct care staff shall have 4. Have at least 6 months paid child care experience and at least 3 1/2 years of any combination of the following:
 - 1. a. Paid child care or related experience; or
 - 2. b. Post-high school education in social work or a related field; or;
 - 2. Be certified by the Arizona Professional Youth Care Association, the National Organization of Child Care Workers Association, or an equivalent organization.
- E.** Direct Care Staff: A person who supervises, nurtures, or cares for a child in care shall have at least:
 - 1. A high school diploma or equivalency degree and 1 year experience in working with children; or

Arizona Administrative Register
Notices of Proposed Rulemaking

2. One year post-high school education in a program leading to a degree in the field of child welfare or human services.
- F. Program Instructors: A person who supervises, trains, or teaches children in the performance of a physical activity that poses an unusually high risk of harm, such as archery, river rafting, rock climbing, caving, rappelling, and hang gliding, shall:
 1. Be currently certified to perform the activity, if applicable;
 2. Have at least 3 years experience related to the activity; or
 3. Have at least 3 letters of reference attesting to skill and experience in the activity
- G. CPR and First Aid Certification: A licensee shall ensure that:
 1. Direct care staff are certified in pediatric cardiopulmonary resuscitation (CPR) and in first aid by the American Red Cross, the American Heart Association, or the Arizona Chapter of the National Safety Council within 3 months of being hired and before caring alone for children in care.
 2. At least 1 staff member per shift, per facility is currently certified in CPR and first aid.
- H. Multiple Functions: A licensee may allow 1 person to perform multiple functions or fill more than 1 position so long as:
 1. The person performing multiple functions is qualified for the jobs held; and
 2. The licensee does not violate the requirements of this Article, including R6-5-7437 governing staff-child ratios.
- I. Exclusions: The educational requirements set forth in this Section do not apply to persons employed with a licensee on the effective date of this Article. These requirements do apply to:
 1. Persons hired as employees after the effective date of this Article; and
 2. Persons who:
 - a. Are employed with a licensee on the effective date of this Article;
 - b. Subsequently separate from that employment; and
 - c. Later seek employment with the same or a different licensee.

R6-5-7433. Orientation and Training for Staff

- A. A licensee shall have a written plan for orientation and training of all staff. The plan shall include a method for the licensee to evaluate whether the person has actually learned the information that was the subject of orientation or training.
- B. All staff shall receive initial orientation and training before assignment to solo supervision of children. The initial orientation and training shall include:
 1. Acquainting staff with the licensee's philosophy, organization, program practices, and goals;
 2. Familiarizing staff with the licensee's policies and procedures, including those on confidentiality, client and family rights, grievances, emergencies and evacuations, behavior management, preventing and reporting child maltreatment, record-keeping, medications, infection control, and treatment philosophy;
 3. Training staff in cardiopulmonary resuscitation (CPR) and first aid according to American Red Cross guidelines as prescribed in R6-5-7432(~~(F)~~);
 4. Training staff to do the initial health screening prescribed in R6-5-7438(E)(9); the licensee shall have a licensed medical practitioner provide this training.
 5. Training staff in de-escalation and any physical restraint practices used at the facility by an instructor approved by the Department;
 6. Familiarizing staff with the specific child care responsibilities outlined in the person's job description;
 7. Training staff to recognize expected responses to and side effects of medications commonly prescribed for children in care; and
 8. Training staff in the licensee's emergency admissions process if applicable to the licensee's services.
- C. The licensee's training plan for ongoing training shall satisfy the requirements of this subsection.
 1. A full-time support staff member shall receive at least 4 hours of annual training.
 2. A full-time direct care staff member shall receive at least 24 hours of annual training.
 3. The training shall cover matters related to the person's job responsibilities, and at least the following subjects, as appropriate to the characteristics of the children in care at the facility:
 - a. Child management techniques;
 - b. Discipline, crisis intervention, and behavior management techniques;
 - c. A review of the licensee's policies;
 - d. Health care issues and procedures;
 - e. Maintenance of current certification in CPR and first aid;
 - f. Attachment and separation issues for children and families;
 - g. Sensitivity towards and skills related to cultural and ethnic differences;
 - h. Self-awareness, values, and professional ethics; and
 - i. Children's need for permanency and how the agency works to fulfill this need.

R6-5-7437. Staff Coverage; Staff-child Ratios

- A. A licensee shall have a written plan to ensure that children are safeguarded. The written plan shall describe ~~describing~~ the staffing for each facility, for 24 hours per day, 7 days per week. The staffing plan shall explain:
1. How staff coverage is assured:
 - a. When assigned staff are absent due to illness, vacation, or other leaves of absence; and
 - b. During emergencies when only 1 staff member is on duty; and
 2. The methods the licensee uses to assure adequate communication and support among staff to provide continuity of services to children.
- B. A licensee shall also have a written staffing schedule for each facility shift; the schedule shall document the staff actually on duty during each shift. The licensee shall retain the schedules in 1 designated location for at least 2 years.
- C. A licensee shall have at least the paid staff to child ratios prescribed in this subsection.
1. Age 12 and above:
 - a. At least 1 paid staff member for each 10 children when children are under the licensee's direct supervision and awake.
 - b. During sleep hours, at least 1 paid staff member in each building where children in care are sleeping.
 2. Age 6 through 11:
 - a. At least 1 paid staff member for each 8 children when children are under the licensee's direct supervision and awake.
 - b. During sleep hours, at least 1 paid staff member in each building where children in care are sleeping.
 3. Age 3 through 5:
 - a. At least 1 paid staff member for each 6 children when children are under the licensee's direct supervision and awake.
 - b. At least 1 paid staff member in each building where children in care are sleeping.
 4. Under age 3:
 - a. At least 1 paid staff member for each 5 children when children are under the licensee's direct supervision and awake.
 - b. At least 1 paid staff member for each 6 children when children are sleeping.
 5. Nonambulatory children, under age 6: At least 1 paid staff member for each 4 children at all times.
- D. For the purpose of the paid staff-child ratios set forth in subsection (C) above,
1. Students and volunteers do not count as staff;
 2. A child who is not in care but who lives at the facility is counted as a child; and
 3. Any paid staff member counted in the ratio must be someone who is qualified to provide direct child care as prescribed in R6-5-7432(E).
- E. A licensee shall not fall below the minimum paid staff-child ratios specified in subsection (C), and shall, notwithstanding those ratios, have paid staff:
1. Sufficient to care for children as prescribed in this Article and in the licensee's own program description, statement of purpose, and policies;
 2. Which take into account the following factors:
 - a. The ages, capabilities, developmental levels, and service plans of the children in care;
 - b. The time of day and the size and nature of the facility; and
 - c. The facility's history and the frequency and severity of unusual incidents, including runaways, sexual acting-out behavior, disciplinary problems, and injuries.
- F. A licensee shall have sufficient numbers of qualified staff to perform the fiscal, clerical, food service, housekeeping, and maintenance functions prescribed in this Article and in the licensee's own policies.
- G. A licensee shall make a good faith effort to employ staff who reflect the cultural and ethnic characteristics of the children in care.

R6-5-7446. Nutrition, Menus, and Food Service

- A. A licensee shall have a written, dated menu of planned meals. The menu shall be available at the facility at least 1 week before meals are served. The licensee shall post the weekly menu in the dining area or in a location where children may review it. The licensee shall keep a copy of the menu and any menu substitutions on file for 1 year.
- B. The licensee shall prepare and serve meals in compliance with the written, dated menus.**
- ~~C.~~ ~~B.~~ A registered nutritionist or dietitian shall either prepare or approve the licensee's menus. The licensee shall maintain a record of any approvals for 1 year, and keep the record in a central location at the agency or facility.
- ~~D.~~ ~~C.~~ A licensee shall develop and follow a specialized menu for a child with special nutritional needs. The licensee shall make special menus available to nutritional staff, but shall not post special menus in an area which is readily seen by other children in care.
- ~~E.~~ ~~D.~~ Menus shall reflect the religious, ethnic, and cultural differences of children in care.
- ~~F.~~ ~~E.~~ When developmentally appropriate, a licensee shall allow children to make menu suggestions.

Arizona Administrative Register
Notices of Proposed Rulemaking

~~G.F.~~ A licensee shall provide each child with at least 3 meals daily, with no more than 14 hours between the evening and morning meals. Between meal snacks shall not replace regular meals.

~~H.G.~~ A licensee shall provide meal portions that are consistent with each child's caloric needs.

~~I.H.~~ A licensee shall serve children meals that are substantially the same as those served to staff unless special dietary needs require differences in diet.

~~J.I.~~ A licensee shall allow children to eat at a reasonable rate; unless otherwise prescribed in agency policy, staff shall encourage social interaction and conversation during meals.

~~K.J.~~ A licensee shall have potable water available at all times.

~~L.K.~~ Staff shall directly supervise children involved in food preparation.

R6-5-7452. Medical and Health Care

A. General health care.

1. A licensee shall have a written plan for meeting the preventive, routine, and emergency physical and mental health needs of children in care. The plan shall identify where and from whom children at a facility may obtain qualified health care, 24-hours per day, 7 days per week.
2. A licensee shall ensure that children in care receive:
 - a. Preventive health services, including routine medical examinations and dental cleanings and examinations; and
 - b. The following health services, if necessary:
 - i. Evaluation and diagnosis,
 - ii. Treatment, and
 - iii. Consultation.
3. A licensee shall ensure that a child in care receives a developmentally appropriate explanation of any health treatment the child receives, in a language and manner the child can understand.
4. A licensee shall not ignore a child's complaints of pain or illness and shall document persistent complaints and any actions taken in response to the complaints.

B. Medical care.

1. A licensee shall arrange for a physician, physician's assistant, or nurse practitioner to give a child a medical examination within 1 week of the child's admission unless:
 - a. A licensed medical practitioner examined the child within the 45 days preceding the child's admission; and
 - b. The licensee has a report of the examination as prescribed in R6-5-7438(E)(4)(a).
2. A licensee shall also arrange for a child in care to receive an annual medical exam from a physician, physician's assistant, or nurse practitioner.
3. The initial and annual medical examinations shall include:
 - a. Screening for communicable disease unless restricted by law;
 - b. Vision and hearing screening; and
 - c. For children who wish to participate in sports or physically strenuous activities such as backpacking, an evaluation of the child's capacity to participate.
4. A licensee shall obtain a report of the examination, and, if applicable, a statement signed by the medical practitioner conducting the examination, or the practitioner's designee, regarding the child's capacity, fitness, and clearance to participate in sports or physically strenuous activities.
5. After attempting to determine a child's immunization history, a licensee shall arrange for the child to receive any routine immunizations and booster shots within 30 days of admission.

C. Dental care.

1. A licensee shall arrange for each child to have a dental examination within 60 days of admission unless the licensee is provided the written results of a dental examination conducted within 6 months prior to admission.
2. A licensee shall arrange for each child age 3 and older to receive a dental examination every 12 6 months, or more frequently as recommended by a person licensed as a Doctor of Dental Science (DDS).
3. In cooperation with the placing agency or person, a licensee shall arrange for a child to receive any prescribed dental care.

D. First aid. A licensee shall equip the residence of each living unit with at least the following first aid supplies:

1. Adhesive strip bandages;
2. Sterile, individually wrapped gauze squares;
3. Roller gauze;
4. Adhesive tape;
5. Individually wrapped non-stick sterile pads;
6. A triangular bandage to be used for a sling;
7. Disposable latex gloves;
8. A pair of scissors;
9. A pair of tweezers; and

10. A cardiopulmonary resuscitation mouth guard or mouth shield.

R6-5-7459. Building Interior

- A.** A licensee shall ensure that a facility's physical plant can structurally accommodate the physical and program needs of all children in care according to the standards prescribed in this Article and the licensee's own program description.
- B.** The licensee shall keep a facility clean and sanitary.
- C.** The licensee shall have and maintain furnishings as prescribed in this subsection.
 - 1. All living areas shall have furniture designed to suit the size and capabilities of the children in care.
 - 2. A licensee shall replace or repair broken, dilapidated, or defective furnishings and equipment.
 - 3. A licensee shall have mirrors in the facility to permit children in care to examine their personal appearance.
 - 4. A licensee shall secure the mirrors to walls at heights convenient to the children in care.
- D.** A licensee shall ensure that all spaces used by children have outside ventilation from a window, louvers, air conditioning, or other mechanical equipment. A window or door used for outside ventilation shall have a screen.
- E.** A licensee shall maintain a facility's residential environment at temperatures which do not:
 - 1. Exceed 85° F.,
 - 2. Fall below 65° F. during daylight hours, or
 - 3. Fall below 60° F. during sleeping hours.
- F.** A licensee shall use thermometers scaled at no more than 2 degree increments to determine temperature.
- G.** A licensee shall not use free-standing stoves which use wood, sawdust, coal, or pellets, or portable heaters as the primary source of heat for a residential area.
- H.** A licensee shall safeguard hot water radiators or steam radiators and pipes or any other heating device capable of causing a burn.
- I.** A licensee shall maintain and use all electrical equipment, wiring, cords, switches, sockets, and outlets in good working order, under safe conditions, in accordance with the manufacturer's recommendations, and as prescribed in this subsection.
 - 1. Electrical outlets in areas accessible to children younger than 6 shall have safety plugs or plates.
 - 2. The licensee shall not:
 - a. Use extension cords exceeding 7 feet in length,
 - b. Allow extension cords to be connected together to extend their length, or
 - c. Allow extension cords to run across or through a room or to pass from 1 room into another.
- J.** A licensee shall provide illumination for ~~illuminate~~ a facility's rooms, corridors, and stairways so that children and personnel can perform activities and tasks safely and without eye strain, ~~and at the following minimum lighting intensities:~~
 - ~~1. At least 15 foot candles in living and sleeping areas;~~
 - ~~2. At least 30 foot candles in study areas; and~~
 - ~~3. At least 30 foot candles in food preparation areas.~~
- K.** A licensee shall illuminate a facility's outdoor walkways and premises so that children and personnel using areas at night can perform activities and tasks safely.
- L.** A licensee housing more than 10 children shall install and maintain emergency lighting systems in children's living quarters.
 - 1. In this subsection, "emergency lighting system" means a battery or generator operated system that:
 - a. Automatically activates if electrical power fails; and
 - b. Provides sufficient light for persons to exit safely in an emergency.
 - 2. If a licensee provides written documentation showing that a facility's emergency lighting system meets applicable city or county building codes for such systems, the system is presumed adequate to satisfy this subsection.

R6-5-7461. Sleeping Areas and Furnishings

- A.** A licensee shall provide each child in care with a designated area for rest and sleep as prescribed in this Section.
 - 1. A licensee shall not use mobile dwellings, trailers, or vehicles as sleeping quarters.
 - 2. The licensee shall provide children in care with bedroom space that:
 - a. Has a direct source of natural light;
 - b. Has a window that:
 - i. Opens to the outside without a grill or other impediment to immediate, emergency exit;
 - ii. Can be easily opened from the inside;
 - iii. Measures at least 22 inches on each side; and
 - iv. Has a bottom sill that is no more than 48 inches from the floor; and
 - c. Is at least:
 - i. A 74 square foot floor area for a single occupant;
 - ii. A 50 square foot floor area for each occupant in a multiple sleeping area; or
 - iii. A 40 square foot floor area for each crib.

Arizona Administrative Register
Notices of Proposed Rulemaking

3. The licensee shall provide each child in care with a bed that:
 - a. Is proportional to the child's height,
 - b. Is at least 30 inches wide,
 - c. Has a solidly constructed bed frame, and
 - d. Has safety railings if developmentally appropriate for the child using the bed.
 4. If a licensee uses a bunk bed, the bed shall be limited to a double bunk, and shall have sufficient head room to allow the upper occupant to sit up.
 5. A licensee shall use only cribs that have:
 - a. Bars or slats no more than 2 3/8 inches apart;
 - b. A mattress that fits snugly into the crib frame so that there is no space between the mattress and frame; and
 - c. No openings through which a child could place his or her head.
 6. A licensee shall provide sheets, pillow cases, and blankets for each child and shall maintain bedding in good repair, without tears or stains.
 - a. The licensee shall ensure that sheets and pillowcases are washed at least weekly and more frequently if necessary.
 - b. The licensee shall use water resistant bedding when necessary.
 7. A licensee shall provide each child with a dresser or other storage space adequate to contain the child's belongings and a designated space for hanging clothing in or near the child's bedroom.
- B.** The square footage area prescribed in subsection (A)(2)(c) is presumed adequate. If a licensee operates a barracks type facility which does not meet these square footage requirements, the licensee shall present a written plan showing how the licensee's square footage provides enough space for sleeping, rest, study, recreation, ingress, and egress in an emergency. The Licensing Authority shall review and approve the plan if it is consistent with the licensee's described program and does not pose a risk of harm to children in care.
- C.** A licensee shall not have bedroom doors that can be locked.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

1. Sections Affected

R20-4-801
R20-4-804
R20-4-805
R20-4-806
R20-4-807
R20-4-808
R20-4-809
R20-4-810
R20-4-811
R20-4-812
R20-4-813
R20-4-814
R20-4-815
R20-4-816
Appendix A
Appendix B

Rulemaking Action

Amend
Repeal
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Repeal
Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute:

A.R.S. § 6-123

Implementing statute:

A.R.S. § 6-851, 6-856, 6-859, 6-861, 6-862, 6-863, 6-865,
6-870.02, and 6-871

Arizona Administrative Register
Notices of Proposed Rulemaking

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Docket Opening, 4 A.A.R. 4044, December 4, 1998

Notice of Docket Opening, 6 A.A.R. 717, February 18, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	John P. Hudock, Esq.
Address:	2910 North 44th Street, Suite 310, Phoenix, AZ 85018
Telephone Number:	(602) 255-4421, ext. 167
Fax Number:	(602) 381-1225
E-mail:	jhudock@azbanking.com

5. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules regulate banks with trust powers, and also private trust companies. The agency revised these rules to reconcile them with statutory changes made in Laws 1996, Ch. 204, §§ 2-10 and 12, to improve the writing, to use "plain English" as much as possible, and to conform to modern rule writing standards.

R20-4-801 has been amended to eliminate restatement of statutory definitions. One definition, of "Managing Agent", has been removed from the amended rule because that term is no longer used in the new rules. Finally, the rule is amended to add definitions of "Governing instrument", "Investment responsibility", "Licensee", "Trust asset", "Trust funds" and "Trustor".

R20-4-804 is repealed because capital requirements are now specified in A.R.S. § 6-856.

R20-4-805(A) is removed because its subject matter is now contained in A.R.S. § 6-859. The remainder of this rule is amended and revised to remove references to Appendices repealed by this rulemaking, to remove passive constructions, and to modernize statutory references.

R20-4-806 is amended to include the right to use computer record keeping systems, and to more precisely define and describe required records. Other amendments remove passive constructions, and revise and clarify the retention period for required records.

R20-4-807 is amended to make editorial changes intended to clarify the rule.

R20-4-808 is amended to remove certain bonding requirements now contained in A.R.S. § 6-859, and to streamline, modernize, clarify, and renumber the remainder of the rule's provisions.

R20-4-809 is amended to more particularly define the required statement frequency. The new requirement of quarterly statements is more precise than the previous rule, and matches the requirements of the federal regulations.

R20-4-810 is amended to remove subsection (B), now addressed in A.R.S. § 6-862, and to clarify and renumber the remaining provisions of the rule.

R20-4-811 is amended to clarify the rule by, among other changes, adding modern statutory citations.

R20-4-812 is amended by completely rewriting the rule in "plain English" to clarify its requirements.

R20-4-813 is amended by certain editorial changes to recast the rule in "plain English".

R20-4-814 is amended by certain editorial changes to recast the rule in "plain English".

R20-4-815 is amended by certain editorial changes to modernize some of its provisions, to make its reference to other sections consistent with this revision, to recast the rule in "plain English", and to remove the term "settlor" as an unnecessary and undefined legalism.

R20-4-816 is amended and clarified by certain editorial changes to modernize some of its provisions, and to recast the rule in gender-neutral "plain English".

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

The Department does not propose to rely on any study as an evaluator or justification for the proposed rule.

Arizona Administrative Register
Notices of Proposed Rulemaking

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

A. The Banking Department

The rules will have marginal, but important, effects on this agency's income and expenses. The Department expects the revised rules' enhanced clarity will allow easier communication with licensees and promote improved compliance.

B. Other Public Agencies

The State will incur normal publishing costs incident to rulemaking.

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. Nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no measurable effect on private and public employment.

F. State Revenues

This rulemaking will not change State revenues.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	John P. Hudock, Esq.
Address:	2910 North 44th Street, Suite 310, Phoenix, Arizona 85018
Telephone:	(602) 255-4421, extension 167
Fax Number:	(602) 381-1225
E-mail:	jhudock@azbanking.com

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceedings are scheduled. The department will schedule an oral proceeding on the proposed rule if it receives a written request for a proceeding within 30 days after the publication date of this notice, under the provisions of A.R.S. § 41-1023(C). Send requests to the department personnel listed in this preamble's questions 4 and 9. The department invites and will accept written comments on the proposed rule or the preliminary economic, small business, and consumer impact statement. Submit comments during regular business hours, at the address listed in this preamble's question 9, until the close of the record for this proposed rulemaking. The record will close on the 31st day following publication of this notice, unless the department schedules an oral proceeding.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

There is no material incorporated by reference in these rules.

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 8. TRUST COMPANIES

Section

- R20-4-801. Definitions
- R20-4-804. ~~Capital Requirements~~Repealed
- R20-4-805. Reports
- R20-4-806. Records
- R20-4-807. Unsafe or Unsound Condition
- R20-4-808. Administration of Fiduciary Powers
- R20-4-809. Fiduciary Duties
- R20-4-810. Funds Awaiting Investment or Distribution
- R20-4-811. Investment of Funds Held as Fiduciary
- R20-4-812. Self Dealing
- R20-4-813. Custody of Investments
- R20-4-814. Compensation
- R20-4-815. Collective Investments
- R20-4-816. Termination of Fiduciary Power and Duties
- App. A. ~~Annual Trust Company Report~~Repealed
- App. B. ~~Annual Report of Trust Assets~~Repealed

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 8. TRUST COMPANIES

R20-4-801. Definitions

In this Article, unless the context otherwise requires:

1. "Account" ~~or fiduciary account~~ means the trust, estate, ~~or of~~ other fiduciary relationship ~~which has been established with the trust company (as defined in this Section) or bank (as defined in this Section).~~
2. "Affiliate" ~~has the meaning stated at A.R.S. § 6-801 means a person that directly, or indirectly through one or more intermediaries, control or is controlled by, or is under common control with, the person specified.~~
3. "Bank" means a licensee under both A.R.S. § 6-201, et seq., and Article 2 of this Chapter ~~bank~~ that possesses a banking permit authorizing issued by the Superintendent, which authorized it to engage in trust business as defined at A.R.S. § 6-851.
4. "Certificate" ~~has the meaning stated at A.R.S. § 6-851. means a certificate of authority to engage in trust business issued under the provisions of Article 1, Chapter 8, Title 6, A.R.S.~~
5. "Fiduciary" ~~has the meaning stated at A.R.S. § 6-851. means a guardian, conservator, trustee, securities custodian, registrar, transfer agent, managing agent, or personal representative as defined in A.R.S. § 14-1201.~~
6. "Governing instrument" means a document, and all its operative amendments, which:
 - a. Creates a trust and regulates the trustee's conduct, or
 - b. Creates an agency relationship between the licensee and a client, or
 - c. Otherwise evidences a fiduciary relationship between the licensee and a client.
6. "Managing agent" ~~means the fiduciary relationship assumed by a trust company or bank upon the creation of an account which names the trust company or bank as agent and confers investment discretion or responsibility upon such trust company or bank.~~
7. "Investment responsibility" means full and unrestricted discretion to make investments of trust funds without direction from anyone as to any matter, including the terms of the trade or the identity of the broker.
8. "Licensee" means and includes a bank, as defined in this section, and a trust company, as defined in this section.
- 9.7. "Person" ~~has the meaning stated in A.R.S. § 1-215. means an individual, corporation, company, partnership, firm, association or society.~~
- 10.8. "Superintendent" ~~has the meaning stated at A.R.S. § 6-851. means the Arizona superintendent of banks.~~
11. "Trust asset" means any property or property right held by a licensee for the benefit of another.
- 12.9. "Trust business" ~~has the meaning stated at A.R.S. § 6-851. means the holding out by a person to the public at large by advertising, solicitation or other means that such person is available to act as a fiduciary in this state and accepting and undertaking to perform the duties as such fiduciary in the regular course of his business.~~
- 13.10. "Trust company" ~~has the meaning stated at A.R.S. § 6-851. means a corporation holding a certificate issued under Article 1, Chapter 8, Title 6, A.R.S.~~
14. "Trust funds" means any money held by a licensee for the benefit of another.

Arizona Administrative Register
Notices of Proposed Rulemaking

15. "Trustor" means a person who creates, or funds a trust, or both.

R20-4-804. Capital Requirements

- ~~A.~~ All trust companies shall maintain a capital of not less than the amount provided in A.R.S. 6-856. If a trust company's capital falls below this amount the capital of the trust company shall be deemed to be impaired.
- ~~B.~~ For purposes of this regulation the capital of the trust company shall equal the company's assets less the company's liabilities. Generally accepted accounting principles shall be used in computing the total assets and liabilities of the company. Assets shall be valued at the lower of cost or market values.
- ~~C.~~ The following shall not be allowed as assets in the determination of the capital of the trust company:
- ~~1. Goodwill, trade names and other like intangible assets.~~
 - ~~2. Advances or loans to directors, officers or affiliates, whether secured or not, and advances to employees, agents and other persons on personal security only.~~
 - ~~3. Stock or other interests in the trust company or in an affiliate, or loans secured solely thereby.~~
- ~~D.~~ Nothing in subsection (C) shall be construed to prevent the allowance as assets, in the determination of the capital of a trust company, of any deposit in a solvent state or national bank or any interest due or accrued on such deposits.
- ~~E.~~ In any determination of the capital of a trust company, liabilities shall include all obligations due or accrued at the date the determination is made. Capital obligations of a trust company shall in every case be treated as a liability and shall not be treated as part of capital.

R20-4-805. Reports

- ~~A.~~ Within 90 days following the 31st of December of each year each trust company shall file an annual audit report with the Superintendent on the form set forth in Appendix A to this Article. The annual report shall include financial statements for the trust company for the year ending December 31st. The statements shall be certified by a certified public accountant licensed as such in this state. The financial statements shall include at least a balance sheet, statement of income and retained earnings, and statement of changes in financial condition and appropriate footnotes regarding the corporate business of the trust company.
- ~~A.B~~ Within 90 days following each the 31st of December, ~~of each year~~ each licensee trust company and bank shall file an annual report of trust assets with the Superintendent on the form prescribed by the Superintendent, the form set forth in Appendix B to this Article. The annual report shall include all trust assets held by the licensee trust company or bank as a fiduciary as of the 31st of December, ~~and such assets shall state assets at be stated in current market value.~~ The In addition the report shall also identify and briefly describe all transactions conducted in the report period that are regulated by subsections (E), (F), and (G) of Section R20-4-812 ,which have taken place during the fiscal year.
- ~~B.C.~~ Each licensee trust company shall deliver file with a copy of each annual report and certificate of disclosure to the Superintendent within 10 days of filing each report or certificate at the Arizona Corporation Commission. A report or certificate covered by this subsection is one filed under the authority of copies of all annual reports and certificates of disclosures filed with the Arizona Corporation Commission pursuant to A.R.S. §§ 10-202 10-125 or and 10-1622, 10-128, A copy delivered to the Superintendent, as required in this subsection, shall be date stamped by the Arizona Corporation Commission to confirm the actual filing date, respectively, which copies shall indicate the date the original was filed with the Corporation Commission and shall be filed with the Superintendent within 10 days of such filing with the Corporation Commission.
- ~~C.D.~~ Each licensee trust company shall notify the Superintendent of any change in the directors or officers of the company within 10 ten days of the such change. Any licensee trust company with more than 25 officers may, after obtaining with the Superintendent's prior written approval of the Superintendent, limit the officers covered by this subsection to those with having a substantial involvement in the licensee's corporate operations ~~of the company~~ or in the licensee's com-pany's trust business in with this state.

R20-4-806. Records

- ~~A.~~ A licensee may use a computer record keeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. Except for records required by subsections R20-4-806(B)(1)(a) or R20-4-806(B)(1)(b), the department shall not require a licensee to keep a written copy of its records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer record keeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved computer record keeping system's fundamental character, medium, or function if the alteration changes any approved computer system back to a paper-based system.
- ~~B.A.~~ All licensees trust companies shall keep and maintain books, accounts, and other records adequate to provide a clear and readily understandable evidence record of all business conducted by the licensee trust company, including, but not limited to, the following:
1. A file Files for each account that includes which:
 - a. shall include The original of the governing instrument.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. The originals of all contracts and other legal documents.
 - c. Copies of all correspondence concerning the account.
 - d. Accounting records disclosing all the account's financial transactions concerning the account, and
 - e. A listing of all trust the account's assets and liabilities of the account.
 - 2. An investment A collateral file for each account, containing the originals of all documentary evidence of documents evidencing the account's assets of the account. A licensee may hold a paper copy of the original documents in the investment file, together with written evidence of custody or receipt by an authorized holder, if an authorized third party holds the original documentary evidence. Copies of such documents may be maintained in the collateral file where the originals are required to be filed or otherwise kept in the possession of another person. This file shall include a record of the initial and annual investment reviews for the account.
 - 3. The A corporate general ledger kept current on a daily basis. This record The corporate general ledger shall identify and segregate all financial transactions conducted by the licensee for itself, distinguishing them from other than those relating to the licensee's trust company's trust business;
 - 4. Unaudited financial statements, as described in rule R20-4-805, subsection (A); Each licensee shall produce these statements quarterly that shall be produced quarterly or more frequently when directed by the Superintendent. The financial statements shall include at least:
 - a. A balance sheet, and
 - b. A statement of income, expenses, and retained earnings.
 - 5. Adequate records of all pending litigation that names to which the licensee trust company as is a party.
- C.B.** Every licensee trust company shall keep its fiduciary records separate and distinct from the licensee's corporate other records of the trust company.
- D.C.** A licensee shall keep records described above in subsections (B)(1) and (B)(2) for at least 3 years after closing the account. If litigation occurs concerning a particular account, the licensee shall keep that account's records, described above in subsections (B)(1) and (B)(2), for 3 years after the litigation is finally resolved. All records described in paragraphs (1) and (2) of subsection (A) of this Section shall be maintained for at least six years after an account has been closed. All records described in paragraphs (3) through (5) of subsection (A) of this Section shall be maintained for at least six years following their creation.

R20-4-807. Unsafe or Unsound Condition

For purposes of A.R.S. §§ 6-863 and 6-865 a licensee trust company conducts is conducting business in an unsafe manner or its affairs are in an unsound condition if it:

- 1. Violates Has violated any of its duties or obligations as a fiduciary; including, but not limited to, those listed set forth in Sections sections R20-4-809 through R20-4-815;
- 2. Violates Has violated any state or federal requirements for operating with respect to the operation or maintaining maintenance of, trusts, common trust funds, or other accounts;
- 3. Violates Has violated any applicable laws or regulations regarding corporations; ;
- 4. Employs or where any of its officers or directors who violate have violated their corporate fiduciary duties;
- ~~5.4. Violates Has violated~~ any federal or state securities laws or regulations;
- ~~6.5. Is insolvent; or~~
- ~~7.6. Engages Has engaged~~ in any conduct that which the Superintendent determines has determined, due to the circumstances present, constitutes an unsafe or unsound business practice condition jeopardizing the licensee's financial condition of the company or the interests of the stockholders' stockholders, creditors' creditors, settlors, trustors' trustors, beneficiaries' beneficiaries, or licensee's principals' interests principals of the company.

R20-4-808. Administration of Fiduciary Powers

- A. The board of directors and the officers share responsibility are responsible for the proper exercise of fiduciary powers by a licensee trust company or bank. The board of directors is responsible for All matters pertinent thereto, including the determining policy; determination of policies, the investing and disposing investment and disposition of trust assets; property held in a fiduciary capacity, and the directing and reviewing direction and review of the actions of all directors, officers, employees, and committees of the board utilized by the trust company or bank in the exercise of its that exercise the fiduciary powers, are the responsibility of the board of directors. The board of directors may delegate the necessary power and authority to perform the licensee's duties as a fiduciary to selected directors, officers, employees, or committees of the board if the delegation is consistent with the corporate charter. The minutes of the board's meetings shall duly reflect all those delegations. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the trust company's or bank's fiduciary powers as it may consider proper to assign, to such directors, officers, employees or committees as it may designate.
- B. A licensee shall not accept a new No account fiduciary account shall be accepted without first obtaining the prior board's approval, or that of the directors, officers, or committees that to whom the board may have authorized to designated the approve new accounts performance of that responsibility. The licensee shall keep a A written record shall be made of each

Arizona Administrative Register
Notices of Proposed Rulemaking

~~new account approval such acceptances and of the relinquishment or closing out of each all account fiduciary accounts. A licensee shall conduct an asset review within 60 days after it accepts each new account if it has investment responsibility for that account. Upon the acceptance of an account for which the trust company or bank has investment responsibilities a prompt review of the assets shall be made. The licensee's board shall ensure that an annual review of account assets is conducted for any account in which the licensee has investment responsibility. The board shall also ensure that a regular and periodic review is made of all the assets held in or for each fiduciary account where the trust company or bank has investment responsibilities, to determine whether to retain the advisability of retaining or to dispose disposing of the such assets.~~

- ~~C. The board of directors of a trust company or bank shall provide protection and indemnity for the trust company or bank against dishonesty, fraud, defalcation, forgery, theft and other similar insurable losses, with corporate insurance or surety companies authorized to do business in this state, not affiliated with the trust company or bank. Coverage against the foregoing losses shall include all directors, officers and employees of the trust company or bank, whether or not they draw salary or compensation, and shall be in the following amounts:~~

Trust Assets Market Value of:	Amount of Coverage
Less than \$3,000,000	\$100,000
3,000,000 to 5,000,000	125,000
5,000,000 to 7,500,000	150,000
7,500,000 to 10,000,000	175,000
10,000,000 to 15,000,000	200,000
15,000,000 to 20,000,000	250,000
20,000,000 to 25,000,000	300,000
25,000,000 to 35,000,000	350,000
35,000,000 to 50,000,000	450,000
50,000,000 to 75,000,000	500,000
75,000,000 to 100,000,000	700,000
100,000,000 to 150,000,000	850,000
150,000,000 to 250,000,000	1,200,000
250,000,000 to 500,000,000	1,700,000
500,000,000 to 1,000,000,000	2,500,000
1,000,000,000 to 2,000,000,000	4,000,000
Over 2,000,000,000	6,000,000

- ~~CD. A Every licensee trust company or bank exercising fiduciary powers shall use designate and retain independent legal counsel admitted to practice in Arizona, who shall advise and inform the licensee on be readily available to pass upon fiduciary matters and all other legal issues presented to advise the licensee trust company or bank and its trust department by the conduct of its trust business.~~

R20-4-809. Fiduciary Duties

All ~~licensees trust companies and banks~~ shall faithfully perform all fiduciary duties imposed upon them by law, including, but not limited to, the following:

- ~~1. Administer accounts strictly according to the governing instrument and solely in the account beneficiary's interests of the beneficiaries or principals of the account;~~
- ~~2. Use reasonable care and skill to make the account productive;~~
- ~~3. Provide complete and accurate information, as to the nature and amount of the assets held, to each account's the beneficiaries or principals of each account at reasonable times, and permit the beneficiaries or principals or any person duly authorized by them to inspect the account's records subject matter of the account and other documents related to the account at any time during normal business hours. The information provided in compliance with this subsection shall be delivered at least quarterly, unless:~~
 - ~~a. Otherwise agreed to in writing by the licensee and its account's principals, or~~
 - ~~b. Provided in the governing instrument, or~~
 - ~~c. A different frequency was established by a lawful course of dealing beginning before the effective date of this rule, and~~
- ~~4. Comply fully with all lawful provisions of the governing instrument document.~~

R204-810. Funds Awaiting Investment or Distribution

- ~~A. Trust funds Funds held in a fiduciary capacity by a licensee trust company or bank awaiting investment or distribution shall not remain be held uninvested or undistributed any longer than is reasonable for the account's proper management of the account.~~
- ~~B. Funds received by a trust company as fiduciary on trust business within this state, which funds are awaiting investment or distribution, shall be deposited with a state or national bank or savings and loan association in this state.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- B.** A licensee may keep trust funds in deposit accounts maintained by the licensee, unless prohibited by law or by the governing instrument. The licensee shall set aside collateral security for all deposited trust funds, under a third party's control. The collateral shall be the following type of securities, in any combination:
1. Direct obligations of the United States or any agency, department, division, or administration of the federal government; or
 2. Any other obligations fully guaranteed by the United States government as to principal and interest; or
 3. Obligations of a Federal Reserve Bank; or
 4. Obligations of any state, of any political subdivision of a state, or of any public authority organized under the laws of a state; or
 5. Readily marketable securities that either:
 - a. Qualify as investment securities under the Investment Securities regulations of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1; or
 - b. Satisfy state pledging requirements under A.R.S. 6-245(C).
- C.** A bank may, unless prohibited by law or by the instrument creating the trust, deposit such funds in the commercial or savings or other department of the bank, provided it first sets aside under control of a third party as collateral security:
1. Direct obligations of the United States or any agency or instrumentality thereof or other obligators fully guaranteed by the United States as to principal and interest;
 2. Obligations of a federal reserve bank, a state or subdivision or instrumentality thereof, or public authority organized under the laws of such state; or
 3. Readily marketable securities that qualify as investment securities pursuant to the Investment Securities regulation of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1.
- CD.** The securities set aside under pursuant to subsection (B)(C) shall, at all times, have a be at least equal in market value no less than to the amount of trust fiduciary funds deposited. However, no ,but such collateral security shall not be required to the extent such fiduciary funds are insured by the Federal Deposit Insurance Corporation, or its successor, insures the deposited trust funds.

R20-4-811. Investment of ~~Trust Funds held as fiduciary~~

- A.** Funds held by A licensee trust company or bank in a fiduciary capacity shall invest trust funds be invested according to:
1. The governing instrument, and
 2. All in accordance with applicable laws law including A.R.S. §§ 6-862, 14-7402, and 14-7601 through 14-7611 and the instrument establishing the fiduciary relationship.
- B.** The collective investment of funds received or held by A licensee trust company or bank shall make any collective investment of trust funds as a fiduciary shall be made exclusively under the terms of only in accordance with Section R20-4-815.

R20-4-812. Self Dealing

- A.** Unless expressly and lawfully authorized by the instrument creating the fiduciary relationship, or by court order or by law, funds held by a trust company or bank as fiduciary shall not be invested in stock or obligations of, or property acquired from:
1. The trust company or bank, or its directors, officers, or employees;
 2. Affiliates of the trust company or bank or their directors, officers or employees; or
 3. Persons with whom there exists such a connection, or in which there exists such an interest, that as might affect the exercise of the best judgment of the trust company or bank, in acquiring such property.
- B.** Property held by a trust company or bank as fiduciary shall not be sold or transferred, by loan or otherwise, to:
1. The trust company or bank, or its directors, officers, or employees;
 2. Affiliates of the trust company or bank or their directors, officers or employees; or
 3. Persons with whom there exists such an interest, as might affect the exercise of the best judgment of the trust company or bank in selling or transferring such property.
- C.** Property held by a trust company or bank as fiduciary may be sold or transferred to the persons described in subsection (B) of this Section only:
1. Where expressly and lawfully authorized by the instrument creating the relationship or by court order or by law;
 2. In cases in which the trust company or bank has been advised in writing by its counsel designated and retained pursuant to Section R20-4-808(C) R20-4-808(D), that it has incurred as fiduciary a contingent or potential liability and desires to relieve itself from such liability, in which case such a sale or transfer may be made with the approval of the board of directors, provided that in all such cases the trust company or bank, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account; or
 3. Where required by the Superintendent.
- D.** Funds held by a trust company or bank as fiduciary shall not be invested by the purchase of stock or obligations of the trust company or bank, or its affiliates, unless authorized by the instrument creating the relationship or by court order or

Arizona Administrative Register
Notices of Proposed Rulemaking

by law; provided, that if the retention of stock or obligations of the trust company or bank, or its affiliates, is authorized by the instrument creating the relationship or by court order or law, it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders, unless such exercise is prohibited by law. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired.

- E.** A trust company or bank may sell assets held by it as fiduciary in one account to itself as fiduciary in another account if the transaction is fair to both accounts and if such transaction is not prohibited by law or by any governing instrument.
- F.** A trust company or bank may make a loan to an account from the funds belonging to another such account, when the making of the loan to a designated account is authorized by the instrument creating the accounts, and is not prohibited by law or by any governing instrument.
- G.** A trust company or bank may make a loan to a fiduciary account and may take as security therefor assets of the account, provided such transaction is fair to such account and is not prohibited by law or by the instrument creating the account.
- A.** A licensee shall not invest trust funds in the following types of property unless expressly authorized by the governing instrument, by applicable state or federal law, or by court order:
 - 1. Its own securities;
 - 2. Other types of property acquired from the licensee;
 - 3. Property acquired from the licensee's directors, officers, or employees;
 - 4. Property acquired from the licensee's affiliates;
 - 5. Property acquired from its affiliates' directors, officers, or employees; or
 - 6. Property acquired from other individuals or organizations with an interest in the licensee if that interest might affect the licensee's exercise of discretion to the detriment of its trust clients.
- B.** However, the licensee may use trust funds to purchase its own securities, or its affiliates' securities:
 - 1. If the licensee has authority under subsection (A), above, and
 - 2. If those securities are offered pro rata to all stockholders of the licensee.
- C.** A licensee shall not sell or loan trust property to itself, or to the following types of persons, unless expressly authorized by the governing instrument, by applicable state or federal law, or by court order:
 - 1. Its directors, officers, or employees;
 - 2. Its affiliates;
 - 3. Its affiliates' directors, officers, or employees; or
 - 4. Other individuals or organizations with an interest in the licensee if that interest might affect the licensee's exercise of discretion to the detriment of its trust clients.
- D.** However, a licensee may sell or loan trust property to persons prohibited by subsection (C), above, if either:
 - 1. Its counsel has advised in writing that, by holding certain property, the licensee has incurred a contingent or potential liability for breach of fiduciary duty, and
 - a. The proposed sale or loan avoids the contingent or potential liability; and
 - b. Its board of directors authorizes the sale or loan by an action duly noted in the licensee's minutes; and
 - c. Its board of directors' action expressly authorizes reimbursement to the affected account; and
 - d. The affected account is reimbursed, in cash, at no loss to that account; or
 - 2. The Superintendent requires the sale or loan to otherwise prohibited parties.
- E.** A licensee may sell trust property held in one account to another of its accounts if:
 - 1. The transaction is fair to both accounts; and
 - 2. The transaction is not prohibited by either governing instrument, by applicable state or federal law, or by court order.
- F.** A licensee may loan trust property held in one account to another of its accounts if:
 - 1. The transaction is fair to both accounts; and
 - 2. The transaction is not prohibited by either governing instrument, by applicable state or federal law, or by court order; and
- G.** A licensee may make loans to its trust accounts, taking trust assets of the borrowing account as security for repayment, if:
 - 1. The transaction is fair to the borrowing account; and
 - 2. The transaction is not prohibited by the governing instrument, by applicable state or federal law, or by court order.

R20-4-813. Custody of Investments

- A.** ~~A licensee shall keep The each account's investments of each account shall be kept~~ separate from its own the assets. ~~It of the trust company or bank and shall place each account's assets be placed in the joint custody or control of at least not less than two of the officers or employees of the licensee trust company or bank who have been designated in writing for that purpose by:~~
 - 1. ~~The licensee's board of directors of the trust company or bank or by~~
 - 2. ~~One one or more officers authorized by the licensee's board of directors of the trust company or bank to make the such designation.~~
- B.** ~~The licensee investments of each fiduciary account shall be either:~~

Arizona Administrative Register
Notices of Proposed Rulemaking

1. ~~Keep~~ Keep each account's investments separate from all other accounts' ~~investments~~ accounts, except as provided in Section R20-4-815; or
2. Adequately identify ~~identified in the records of the trust company or bank as the~~ each account's property ~~of the relevant account in the licensee's records.~~

R20-4-814. Compensation

- A. A licensee acting as a fiduciary may charge a reasonable fee for its services. It shall receive the fee allowed by the court when it is acting under a court appointment. Any agreement as to fees in the governing instrument shall control the fee unless contrary to law, regulation, or court order. If the amount of the compensation for acting in a fiduciary capacity is not expressly provided for in the instrument creating the fiduciary relationship or otherwise expressly agreed to by the parties, the trust company or bank acting in such capacity may charge or deduct a reasonable compensation for its services. When the trust company or bank is acting in a fiduciary capacity under appointment by a court, it shall receive such compensation as may be allowed or approved by that court or by law.
- B. ~~No licensee trust company or bank shall permit any of its officers or employees, while serving as such to take retain any compensation for acting as a co-fiduciary with the licensee trust company or bank in the administration of an any account undertaken by it.~~

R20-4-815. Collective Investments

- A. ~~All collective investments made by licensees trust companies and banks shall be in a through a properly established common trust fund, established under pursuant to A.R.S. § 6-871, and maintained by the licensee trust company or bank exclusively for the collective investment or reinvestment of funds moneys contributed thereto by the licensee trust company or bank acting in its capacity as a fiduciary. A licensee shall not establish a Prior to establishing a common trust fund, the trust company or bank shall unless it first:~~
1. Prepares Prepare a written plan regarding the common trust fund ~~which plan shall be approved by the Board of Directors of the trust company or bank with such approval reflected in the minutes of the Board; and~~
 2. Obtains its board of directors' approval of the plan, evidenced by a duly adopted resolution or the board's unanimous written consent.
- B. ~~The plan shall describe in detail the operation of the common trust fund's fund, operational details including a description of; but not limited to:~~
1. A description of The the licensee's investment powers and investment policy of the trust company or bank over with respect to all funds monies deposited in the common trust fund;
 2. A description of The the manner for allocating the common trust fund's income and losses of the common trust fund;
 3. Description of the requirements with respect to the The criteria for admission to or withdrawal from participating participation in the common trust fund; and
 4. The A description of the basis and method for valuing assets in the common trust fund and the frequency of for such valuation.
- ~~C.B.~~ A licensee shall advise all persons Settlers and beneficiaries having an interest interests in its common trust funds established by a trust company or bank shall be advised of the existence of the foregoing plan described in subsection (A), above, and shall provide be provided a copy of the said plan, upon request.
- ~~D.C.~~ The annual report required under Section R20-4-805 (A) Section R20-4-805, subsection (B), shall include all common trust funds operated by the licensee.

R20-4-816. Termination of Trust or Fiduciary Powers power and Duties duties

- A. ~~Any bank that wants to surrender its trust powers which has been granted the right to exercise fiduciary powers and which desires to surrender such rights shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent signifying such desire. If, after investigation, the Superintendent concludes Upon receipt of such resolution, the Superintendent shall make an investigation and if he is satisfied that the bank has no remaining been discharged from all fiduciary duties, the Superintendent will notify the bank that it which it has undertaken, he shall amend the bank's permit to provide that it is no longer has authority authorized to exercise trust fiduciary powers.~~
- ~~B.C.~~ Any trust company that wants which desires to surrender its rights and obligations as a fiduciary and remove itself from the Superintendent's supervision of the Superintendent shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent, signifying such desire. If, after investigation, the Superintendent concludes Upon receipt of such resolution, the Superintendent shall make an investigation and if he is satisfied determines that the trust company's certificate has been cancelled or revoked, and that the trust company has been discharged from all no further fiduciary duties which it has previously undertaken, the Superintendent will notify the trust company that it he shall issue a certificate to such trust company certifying that it is no longer has authority authorized to exercise fiduciary powers.
- ~~C.B.~~ Any trust company that wants which desires to surrender its certificate of authority to conduct trust business shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous

Arizona Administrative Register
Notices of Proposed Rulemaking

~~written consent, signifying such desire.~~ Upon receipt of ~~the such~~ resolution or consent, the Superintendent shall cancel the trust company's certificate of authority and the trust company shall not thereafter accept ~~additional~~ new trust accounts ~~trust business~~.

- D.** Any licensee that surrenders its powers, rights, obligations, or certificate under this Section or that has them cancelled, suspended, or revoked shall continue to be regulated under A.R.S. § 6-864 and this Article until it winds up its affairs. No action under this Section impairs any liability or cause of action, existing or incurred, against any licensee or its stockholders, directors, or officers.
- D.** ~~The fact that a trust company's certificate of authority has been surrendered, and cancelled, or has been suspended or revoked, does not relieve the trust company from the fiduciary duties previously undertaken, nor does it relieve the trust company from compliance with the requirements of this Article.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

~~APPENDIX A. ANNUAL TRUST COMPANY REPORT~~ Repealed

ANNUAL TRUST COMPANY REPORT

NAME.....

ADDRESS.....

FOR THE YEAR ENDING: December 31, 19

BALANCE SHEET	ASSETS	<u>Sch.</u>	<u>Item</u>	<u>Col.</u>	<u>Mil. Thou.</u>	
1. Cash		C	6			1
2. U.S. Treasury securities		B	1	E		2
3. Obligations of other U.S. Gov't agencies & corps		B	2	E		3
4. Obligations of States & political subdivisions		B	3	E		4
5. Other bonds, notes, and debentures			4	E		5
6. Corporate stock						6
7. Trading account securities						7
8. a. Loans, Total (excluding unearned income)		A	9			8a
b. Less: Reserve for possible loan losses						b
c. Loans, Net						c
9. Direct lease financing						9
10. Premises, furn. & fixt. & other assets representing premises						10
11. Real estate owned other than premises						11
12. Investments in unconsolidated subsidiaries & associated companies						12
13. Other assets		D	7			13
14. TOTAL ASSETS (sum of items 1 thru 13)						14
	LIABILITIES	<u>Sch.</u>	<u>Item</u>	<u>Col.</u>		
15. Accounts payable						15
16. Current portion of long term debt						16
17. Accrued Taxes						17
18. Accrued interest						18
19. Other current liabilities						19
20. TOTAL CURRENT LIABILITIES						20
21. Other liabilities for borrowed money						21
22. Mortgage indebtedness						22
23. Other liabilities		E	9			23
24. Subordinated notes and debentures						24
25. TOTAL LIABILITIES (sum of items 15 thru 24)						25
	EQUITY CAPITAL					
26. Preferred stock	a. No. shares outstanding		(Par value)			26
27. Common stock	a. No. shares authorized					
	b. No. shares outstanding		(Par value)			27
28. Surplus						28
29. Undivided profits						29
30. Reserve for contingencies & other capital reserves						30
31. TOTAL EQUITY CAPITAL (sum of items 26 thru 30)						31
32. TOTAL LIABILITIES & EQUITY CAPITAL (sum of items 25 and 31)						32

I, of the above-named trust company

(Name & title of officer authorized to sign report)

do solemnly swear that this report of condition (including the information on the reverse side hereof) is true and correct, to the best of my knowledge and belief.

SEAL

.....
(Signature of officer authorized to sign report)

State of County of

ss:

Sworn to and subscribed before me this day of, 19.....
and I hereby certify that I am not an officer or director of this trust company.

Arizona Administrative Register
Notices of Proposed Rulemaking

SCHEDULE A -- LOANS

1.	Real estate loans		1
2.	Loans for purchasing or carrying securities (secured and unsecured)		2
3.	Commercial and industrial loans		3
4.	Loans to officers, directors and employees		4
5.	Loans to affiliates or subsidiaries		5
6.	All other loans		6
7.	Total loans, Gross (sum of items 1 thru 6)		7
8.	Loss: Unearned income on loans		8
9.	Total loans (excluding unearned income) (must equal Assets, item 8a)		9

SCHEDULE B -- SECURITIES -- DISTRIBUTION BY REMAINING MATURITY (Book Value)

Investment Securities (Items correspond to Assets, Items 2, 3, 4 and 5)	A. 1 year & less	B. Over 1 thru 5 years	C. Over 5 thru 10 years	D. Over 10 years	E. Total	
1. U.S. Treasury Securities						1
2. Other U.S. Gov't agency & corp.						2
3. States & political subdiv's						3
4. Other bonds, notes, & deb's						4
5. Total						5

SCHEDULE C -- CASH

1.	Cash items in process of collection		1
2.	Demand deposit balances		2
3.	Time and savings deposit balances		3
4.	Currency and coin		4
5.	Overdraft Reserve		5
6.	Total (must equal Assets, item 1)		6

SCHEDULE D -- OTHER ASSETS

1.	Securities borrowed		1
2.	Due from affiliates or subsidiaries, Net		2
3.	Income earned or accrued but not collected		3
4.	Prepaid expenses		4
5.	Cash items not in process of collection		5
6.	All other (itemize amounts over 25% of item 7):		6
		
		
		
		
		
		7

SCHEDULE E -- OTHER LIABILITIES

1.	Securities borrowed		1
2.	Due from affiliates or subsidiaries, Net		2
3.	Dividends declared but not yet payable		3
4.	Expenses accrued and unpaid		4
5.	Amounts in transit to banks		5
6.	Minority interest in consolidated subsidiaries		6
7.	Deferred income taxes		7
8.	All other (itemize amounts over 25% of item 9):		8
		
		
9.	Total (must equal Liabilities, item 23)		9

Arizona Administrative Register
Notices of Proposed Rulemaking

APPENDIX B. ANNUAL REPORT OF TRUST ASSETS~~REPEALED~~

**INSTRUCTIONS FOR THE PREPARATION OF THE ANNUAL
REPORT OF TRUST ASSETS**

General Instructions

The Annual Report of Trust Assets is to be prepared for the use of the Superintendent of Banks. The information compiled from these forms will be used in the Superintendent's evaluation of the investment practices of the trust company or bank and in publications of statistical data on the fiduciary activities of trust companies and state banks.

Parts I and II of this report shall include all assets held by the trust company or bank as a fiduciary as of the 31st day of December for the reporting year. The assets listed in this report shall be stated at current market value. In reflecting the market values of assets, the trust company or bank should report the market value figure: (1) as of any one date within the last 60 days of the calendar year; or (2) as of the date of the most recent annual or periodic review of each account. If the trust company or bank adopts the latter alternative, it is recognized that data may be included as of different valuation dates. In the event the trust company or bank chooses to reflect such values as of different review dates, this fact should be clearly indicated in the report.

The assets of collective investment funds should be reported according to the appropriate classification and heading in the report. To avoid duplication, the value of units of participation in such collective investment funds should not be reported as assets of the participating accounts. The value of insurance policies held in both employee benefit and other accounts should be omitted from the report.

Where market values are not available, the trust company or bank should report the asset at cost, and should clearly designate such value with an asterisk.

All values should be reported in dollars with cents omitted. Values may be rounded to the nearest thousand dollars by 000's.

*Explanation of Report Headings
(Part I)*

Trusts and Estates

1. "Employee benefit" should include all employee benefit accounts where the trust company or bank acts as trustee, even though such investments may be partially or wholly directed by others.
2. "Personal trusts" should include all testamentary, inter vivos, and other private trusts, even though some investments may be partially or wholly directed by others. Do not include employee benefit trusts in this category. Corporate trusts and corporate agency accounts should be omitted from this report entirely.
3. "Estates" should include accounts in which the trust company or bank acts in the following or similar capacities: executor, administrator, guardian.

Agencies

4. "Employee benefit" should include all employee benefit accounts where the trust company or bank acts as agent, even though some investments may be partially or wholly directed by others.
5. "All others" should include all other agency accounts separately stated, where the trust company or bank renders investment advice, regardless of whether the customer may approve or otherwise direct investment. Do not include any such accounts whose assets are not held by the trust company or bank. Assets of strictly custodial accounts should also be omitted.

Total

This column should include the sums of all assets categories reported under different account classifications, for example, the sum of columns (1), (2), (3), (4) and (5).

*Explanation of Assets Classifications
(Parts I and II)*

Bonds and other obligations. All bonds and other obligations should be included (except as otherwise provided below) in the following three categories: "U.S. Government and agency obligations" (1); "State, county and municipal obligations" (2); or "other obligations" (3).

Stocks. All stocks should be included in two categories: "common stocks" (4); or "preferred stocks" (5). Common stocks of stock savings and loan associations are to be included in the category of "common stocks" (4).

Real estate mortgages. Real estate mortgages, real estate contracts, and trust certificates, and ground rents are to be included in the category of "real estate mortgages" (6).

Real estate. Real estate, mineral interests, royalty interests, leaseholds, and other similar assets should be included in the category of "real estate" (7). If the current market values of real estate are not readily available, estimates based upon appraisals within the past four years may be used for purposes of this form. It is permissible to estimate market values of mineral interests of whatever type by capitalizing an annual income five times, when appropriate.

Savings and loan association accounts. Accounts in, or shares accounts of, savings and loan associations should be included in the category "savings and loan association accounts" (8). Deposits in mutual savings banks should be included in the category of "time deposits—other banks" (10).

Time and demand deposits. Time and demand deposits in own (affiliated) or other commercial and savings banks should be included in the respective categories: "time deposits—own" (9); "time deposits—other banks" (10); "demand deposits—own" (11); or "demand deposits—other banks" (12).

Miscellaneous. Unsecured notes, notes secured by other than real estate, judgments, accounts receivable, jewelry, automobiles, livestock, and other miscellaneous assets not otherwise reported above should be shown in the category of "miscellaneous" (14).

Total assets. The total values for each asset category should be entered on the line entitled "total assets" (15).

Total number of accounts. The total number of accounts administered by the trust company or bank for each category of fiduciary accounts should be entered on the line entitled "total number of accounts" (16).

Arizona Administrative Register
Notices of Proposed Rulemaking

ANNUAL REPORT OF TRUST ASSETS
For the year ending December 31, 19—

PART I Market Value of Trust Assets

	Market Value					
	Trusts & Estates			Agencies		
	Employee Benefit (1)	Personal Trusts (2)	Estates (3)	Employee- Benefit (4)	All Others (5)	Total (6)
ASSETS						
U.S. Government and agency obligations (1)						
State, county, and municipal obligations (2)						
Other obligations (3)						
Common stocks (4)						
Preferred stocks (5)						
Real estate mortgages (6)						
Real estate (7)						
Savings and loan association accounts (8)						
Time deposits, own bank (9)						
Time deposits (10)						
Demand deposits, own bank (11)						
Demand deposits (12)						
Miscellaneous (13)						
Total assets (14)						
Total number of accounts (15)						

Instructions for Completing Part II

In Part II, briefly describe each of the following transactions completed during the reporting period:

- (a) ~~Inter-account sales. All sales of assets held by the trust company or bank as fiduciary in one account to itself as fiduciary in another account.~~
- (b) ~~Inter-account loans. All loans made to fiduciary accounts of the trust company or bank from funds belonging to other such accounts.~~
- (c) ~~Trustee loans. All loans of corporate or other funds, except those covered by (b), made by the trust company or bank to fiduciary accounts of the trust company or bank.~~

Each of the foregoing transactions should be described under the appropriate heading (i.e., “inter-account sales”; “inter-account loans” and “trustee loans”) and should include the following information preceded by the appropriate number in parenthesis:

- (1) ~~Date of the loan or sale.~~
- (2) ~~The identity and a brief description of the accounts involved in the loan or sale.~~
- (3) ~~Amount of the loan (in the case of a loan) or a description of the consideration exchanged by each account and the fair value of such consideration (in the case of a sale).~~
- (4) ~~Other material terms of the loan or sale.~~
- (5) ~~An explanation of why the trust company or bank believes that the loan or sale is fair to the accounts involved.~~
- (6) ~~A statement of whether the loan or sale is prohibited by law or by any governing instruments.~~
- (7) ~~A statement of whether the loan is authorized by the instrument creating the account from which the loan is made (inter-account loans only).~~

~~Part II Description of Trustee Loans and Inter-Account Transactions. (see Instructions)~~